

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TIMOTHY DEAN BEST,

Plaintiff,

-v-

No. 1:14-CV-968
(DNH/ATB)

VILLAGE OF ELLENVILLE; and VILLAGE OF
ELLENVILLE POLICE DEPARTMENT and their
Employees,

Defendants.

APPEARANCES:

OF COUNSEL:

TIMOTHY DEAN BEST
Plaintiff, pro se
P.O. Box 186
Woodbourne, NY 12788

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Timothy Dean Best filed this complaint pursuant to 42 U.S.C. § 1983. On August 6, 2014, the Honorable Andrew T. Baxter, United States Magistrate Judge, advised, by Report-Recommendation that plaintiff's complaint be dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), but that plaintiff be afforded an opportunity to submit a proposed amended complaint as to one defendant. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C.

§ 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's complaint is DISMISSED with prejudice as to defendant Village of Ellenville Police Department;

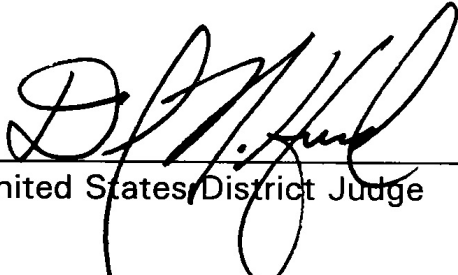
2. Plaintiff's complaint is DISMISSED without prejudice as to defendant Village Of Ellenville;

3. Plaintiff has forty-five (45) days from the date of this Decision and Order to submit for review an amended complaint that complies with the specifications set forth in the Report-Recommendation, including an amendment to include the name of any officer or officers that plaintiff believes was (were) responsible for the use of excessive force or the failure to warn him of his rights;

4. Upon the timely filing of a proposed amended complaint by plaintiff, the Clerk is directed to send the file to Magistrate Judge Baxter for review; and

5. The Clerk serve this order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.


United States District Judge

Dated: September 3, 2014
Utica, New York.